

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 31, 32, 35 and 39 are currently being amended.

I. Claim Objections

On page 2 of the Office Action, the Examiner objected to claim 35 for depending from a cancelled claim. With this amendment, claim 35 has been amended to depend from claim 34. Accordingly, Applicant respectfully requests withdrawal of the objection to claim 35.

II. Rejection of Claims Under 35 U.S.C. § 102(e)

On pages 2-3 of the Office Action, the Examiner rejected claims 1, 30-32, 34, 35, 39, 41, 43-45, and 47-49 under 35 U.S.C. § 102(e) over Thomeer. Claims 1, 30, 31, 32, 39, and 41 are in independent form. Claims 1, 30, and 41 all recite that the tubular include or be formed from “bistable cells.” With this amendment, claims 31, 32, and 39 have been amended to recite “a plurality of bistable cells.” Thomeer fails to teach or disclose a bistable device comprising or being formed of bistable cells. Thomeer, therefore, fails to teach all the limitations of independent claims 1, 30, 31, 32, 39, and 41. Accordingly, applicants respectfully request withdrawal of the rejection of independent claims 1, 30, 31, 32, 39, 41, and corresponding dependent claims 34, 35, 43-45, and 47-49 under 35 U.S.C. § 102(e).

III. Rejection of Claims Under 35 U.S.C. § 103

On page 4 of the Office Action, the Examiner rejected claim 43 under 35 U.S.C. § 103 over Thomeer. Claim 43 depends from claim 41. Claim 41, as noted above, requires “an expandable tubing formed of bistable cells.” Thomeer fails to teach or disclose such a tubing formed of bistable cells. Accordingly, Applicant respectfully requests withdrawal of the rejection of claim 43 under 35 U.S.C. § 103.

IV. Conclusion

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-17, 30-32, 34, 35, 39, 41, and 43-49 are now pending in this application.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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